

**IN THE MATTER OF
BRIAN GRIMM
PETITIONER**

*** BEFORE THE DIRECTOR OF
* DEPARTMENT OF PLANNING & ZONING
* CASE NO. NCU-22-001
* 8895 FREDERICK ROAD**

* * * * *

DECISION AND ORDER

On February 25, 2022 the Designee for the Director of the Department of Planning and Zoning conducted a public hearing to consider the petition of Brian Grimm ("Petitioner") for Nonconforming Use Confirmation of a two-family dwelling at 8895 Frederick Road (the "Property") as authorized under Section 100.0.H. and Section 129.0.D. of the Zoning Regulations. The notice of the hearing was posted on the Property in accordance with all applicable regulations. The Petitioner presented the petition.

Prior to the introduction of testimony, the following items were incorporated into the record:

1. The Howard County Zoning Regulations.
2. The Subdivision and Land Development Regulations.
3. The Administrative Procedures Act of the Howard County Code.
4. The 1948, 1954, 1961, 1977, 1985, 1993 and 2004 Howard County Zoning Regulations.
5. The Land Use map records of the Department of Planning and Zoning.
6. The aerial photograph records and other historical records of the Department of Planning and Zoning.

Mr. Tyler provided a brief report on the Property and the nonconforming use confirmation request. The Petitioner concurred with the report and asserted that he is only requesting Nonconforming Use Confirmation of the two-family dwelling located on the Property. He testified that he purchased the Property in 2018. He provided rental receipts and a letter from the previous owner, who used the Property as a two-family dwelling from 1969 to 2018. He stated that the two-family dwelling has been in operation since he purchased the Property.

Based upon all testimony and exhibits presented at the hearing, the description of the subject Property and vicinal properties, as well as the plans and materials submitted by the Petitioner as part of the petition, the Director makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Petitioner is the owner of the Property, which identified as Tax Map 24 Parcel 496 and addressed as 8895 Frederick Road. The Property is 5.06 acres and is zoned R-20 (Residential: Single).

2. The Property consists of a retail nursery/landscape contracting business, confirmed as Nonconforming Use (Case NCU-18-007) on October 22, 2018 and a 3,500-square foot two story residential structure built in 1954 comprised of two dwelling units.
3. The Petitioner proposes to limit the Nonconforming Use area to 0.5 acre of the Property as depicted on the Nonconforming Use Plan
4. The elevation of the Property descends from 340 feet along the rear property line to 310 feet in the front along Frederick Road.
5. All adjacent properties are zoned R-20 and contain single-family dwelling units, except for the US-29 right-of-way to the east.
6. The Property was zoned R (Residential) in the first edition of the Zoning Regulations (adopted in 1948), which permitted "Dwellings" as a matter of right and did not restrict two-family dwellings. In 1961, the Property was zoned R-20, which permitted "One and two family detached dwellings" as a matter of right. The Property has remained R-20 since 1961. However, two-family detached dwellings were removed from the list of uses permitted as a matter of right in the 1977 Comprehensive Zoning.
7. The Petitioner submitted documents with the petition including rental receipts from 1970, a letter from the previous owner confirming that the Property was used as a duplex (two-family dwelling) from 1969 until it was sold to the Petitioner in 2018, and rental receipts from 2018 to 2021.

CONCLUSIONS OF LAW

Section 129.0.D.1 of the Zoning Regulations permits the Director of Planning and Zoning to confirm the existence of a nonconforming use upon review of a petition filed by the Property owner which contains the following items:

- a. A statement and plans or other illustrations fully describing the magnitude and extent of the nonconforming use.
- b. A statement identifying the date the use became nonconforming to the use provisions of the Zoning Regulations.
- c. Documentation substantiating the existence of the use on the date it became nonconforming and clearly demonstrating the continued and uninterrupted use or operation thereof from the specified date to the

time of filing the application. The burden shall be on the Property owner to establish the existence of the nonconforming use.

Based upon the foregoing Findings of Fact, the Director makes the following Conclusions of Law:

1. The Petitioner provided statements, documentation and plans describing the existence of a two-family dwelling on the Property.
2. The Petitioner identified the date the use allegedly became nonconforming as the date of adoption of the 1977 Zoning Regulations in October 3, 1977, which removed two-family dwellings from the list of uses permitted as a matter of right on residentially zoned properties.
3. The Petitioner provided a letter and rental receipts from the previous owner indicating that the two-family dwelling existed in 1969 and remained in continuous operation until 2018 when the Property was sold to the Petitioner. The Petitioner submitted rental receipts from 2018 to 2021 demonstrating continued and uninterrupted use as a two-family dwelling subsequent to his acquisition of the Property.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 21st day of March 2022 by the Director of the Department of Planning and Zoning for Howard County, ORDERED that the petition of Brian Grimm for confirmation of a Nonconforming Use for a two-family detached dwelling on 0.5-acre of the Property as depicted on the Nonconforming Use Plan, be and the same is hereby **GRANTED**.

Prepared By:
The Howard County Department of Planning and Zoning

DocuSigned by:
Amy Gowan
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Amy Gowan, Director
Department of Planning and Zoning

DocuSigned by:
Justin Tyler
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Justin Tyler, Director's Designee

Notice: A person aggrieved by this decision may appeal it to the Howard County Hearing Authority within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time, the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Hearing Authority. The person filing the appeal will bear the expense of providing notice and advertising the hearing.